

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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CLERK-ALBUQUERQUE

LANCE R. CRAIG and JANET CRAIG,
husband and wife,

Plaintiffs,

v.

No. CIV-06-0498 MCA RLP

CARHARTT, INC.,
a Michigan corporation,

Defendant.

**COMPLAINT FOR STRICT PRODUCT LIABILITY
AND FOR LOSS OF CONSORTIUM**

COME NOW Plaintiffs, Lance R. Craig and Janet Craig, by and through their attorneys,
Wagner, Ford & Associates, P.A. and for their Complaint, STATE AND ALLEGE:

PARTIES AND JURISDICTION

1. Plaintiffs are citizens of the State of New Mexico and Defendant is a corporation incorporated under the laws of the State of Michigan having its principal place of business in a State other than the State of New Mexico. The matter in controversy exceeds, exclusive of interest and costs, the sum specified by 28 U.S.C. §1332.
2. At all times material to this action, Plaintiffs have been legally married to each other.
3. Defendant transacts business within Bernalillo County, New Mexico and the causes of action set forth herein arise out of such transaction of business by Defendants.
4. Venue and jurisdiction is proper in this Court.

GENERAL ALLEGATIONS

5. The allegations in Paragraphs 1 through 4 of this Complaint are realleged as if fully restated herein.

6. On or about January 3, 2000, Plaintiffs purchased an insulated jacket (hereinafter "the jacket") which was designed, manufactured and supplied by Defendant.

7. On April 16, 2004, Plaintiff Lance Craig was wearing the jacket and, while he was sitting on the hearth of his gas log fireplace, it ignited.

8. Unknown to Plaintiff Lance Craig, while he was wearing the jacket, it had ignited and was slowly burning. By the time Mr. Craig became aware of the fact that his jacket was on fire, he could not get it off of his body before the fire caused severe third degree burns to his entire back and buttocks.

9. At all times material herein, Defendant was in the business of the design, manufacture and supply of insulated work clothing, such as the jacket.

10. Lance Craig has suffered damages, including but not limited to medical expenses in excess of \$60,000.00, severe pain, emotional distress, permanent disfigurement, disabling injury, past and future income, and loss of consortium in a sum to be established at trial.

COUNT I

STRICT PRODUCT LIABILITY

11. The allegations in Paragraphs 1 through 10 of this Complaint are realleged as if fully restated herein.

12. Defendant owed a duty of care to Plaintiff to design, manufacture, supply and produce a jacket that was safe for its intended purpose as a work jacket which would be exposed to fire and sparks. This duty included using ordinary care to avoid a foreseeable risk of injury.

13. Defendant was aware of the fact that its insulated jackets, due to the nature of the construction of the jacket, could burn for periods of time during which the wearer of the jacket would be unaware that the jacket was on fire.

14. Defendant was aware of the fact that serious burn injuries had resulted from its jackets burning while the wearer of the jacket was unaware that the jacket was on fire.

15. Defendant breached its duty by failing to design and manufacture a jacket that, when ignited, would burn in such a fashion that the wearer of the jacket is unable to determine that the jacket was on fire until it was too late to remove the jacket, thereby causing serious burn injury.

16. Defendant also owed a duty of care to provide adequate warnings regarding known dangers of the jacket.

17. Defendant failed to provide adequate warnings under New Mexico law as to the known defects as hereinabove and hereafter alleged. Additionally, the alleged warnings were not in a prominent place, were faded and failed to warn of the dangers posed by the use of the jacket near flames.

18. Plaintiff suffered serious injury and damages as a direct and proximate result of the Defendant's defective product.

19. Defendant, as a designer, manufacturer and supplier in the business of putting the jacket on the market, is liable for harm proximately caused by an unreasonable risk of injury resulting from a condition of the jacket.

20. Defendant designed, manufactured and supplied an insulated jacket that had an unreasonable risk of injury in that it ignited under conditions when it should not and the insulation prevented the wearer of the jacket to know that it was on fire until it was too late to remove the jacket without suffering a burn injury.

21. The conduct of Defendant as hereinabove alleged was wilful, reckless or grossly negligent; accordingly, Plaintiffs are entitled to punitive damages.

COUNT II

NEGLIGENT AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

22. The allegations in Paragraphs 1 through 21 of this Complaint are realleged as if fully restated herein.

23. Plaintiff, Janet Craig, has a close relationship with her husband and suffered severe emotional distress as a result of perceiving the incident and subsequent suffering experienced by him.

24. The conduct of Defendant as set forth in the allegations above, which resulted in severe injuries to Plaintiff, Lance R. Craig, was extreme and outrageous under the circumstances. The Defendant acted recklessly and intentionally, causing severe emotional distress to Plaintiffs.

COUNT III

LOSS OF CONSORTIUM

25. The allegations in Paragraphs I through 24 of this Complaint are realleged as if fully restated herein.


26. Plaintiffs marital and societal relationship with each other has been damaged as a proximate result of the acts and omissions of Defendants as set forth in Counts I and II above.

JURY DEMAND

Plaintiffs hereby demand trial by jury.

WHEREFORE, Plaintiffs pray for entry of judgment in their favor which grants damages consisting of compensatory damages, emotional distress, loss of consortium, punitive damages, pre-judgment interest, post judgment interest and such additional relief as the court deems just and appropriate under the circumstances.

WAGNER, FORD & ASSOCIATES, P.A.

BY: 
KENNETH R. WAGNER
Attorneys for Plaintiffs
P.O. Box 25167
Albuquerque, NM 87125-5167
(505) 242-6300